

## **REMARKS**

This paper is a Response to the Office Action mailed May 6, 2008. Claims 40 to 76 are pending. Claims 41 and 48 to 52 have been cancelled herein without prejudice. Applicants maintain the right to prosecute the cancelled claims in any related application claiming the benefit of priority of the subject application. Applicants respectfully request rejoinder of claim 53, which has been amended to depend from claim 40, with elected claims 40 to 47 and 54 to 59. Accordingly, upon entry of this Response claims 40, 42 to 47 and 53 to 59 are under consideration.

### *Regarding the Claim Amendments*

The amendments are supported throughout the specification. In particular, the amendment to claim 40 to recite “wherein said first layer comprises polyvinylpyrrolidone (PVP) or polyvinylpolypyrrolidone (PVPP)” is supported, for example, by originally filed claims 1 and 5 (see, also, page 9, second paragraph). The amendment to claim 40 to recite “wherein said first layer is arranged above the second layer” is supported, for example, by originally filed claims 1 and 2, and by Figure 3, which discloses a first layer arranged above a second layer (see, also, page 8, last paragraph). The amendment to claims 43 and 46 were made in view of the foregoing amendment to claim 40. The amendment to claim 53 to depend from claim 40 is supported, for example, by originally filed claims 1, 10 and 13 to 15; the paragraph bridging pages 7 and 8; and at page 13, second paragraph. Thus, as the claim amendments are supported throughout the specification or were made to address an informality, no new matter has been added and entry thereof is respectfully requested.

### *Regarding the Objections to the Specification*

The specification stands objected to due to allegedly incomplete citations. In particular, allegedly the references followed by the term “loc. cit.” are incomplete.

In response, Applicants respectfully point out that the term “loc. cit.” means “in the passage already cited.” Thus, this term is used to abbreviate a reference citation that has already been completely provided in the disclosure. For example, at page 4, lines 4-5, the Tsai and Olson (1992) reference precedes the abbreviation “loc. cit.” The complete citation for the Tsai and Olson (1992) reference is already provided at page 3, second paragraph of the specification,

namely “(Tsai and Olson (1992) Appl Environ Microbiol 58, 2292-5).” Thus, since the complete reference citations have been provided for each of the references followed by the term “loc. cit.” the reference citations are not incomplete. Accordingly, Applicants respectfully request withdrawal of objection to the specification.

I. REJECTIONS UNDER 35 U.S.C. §102

The rejection of claims 40 to 46 and 54 to 59 under 35 U.S.C. §102(b) as allegedly anticipated by Coffman (WO 99/00168) is respectfully traversed. The grounds for rejection are set forth at page 5 of the Office Action.

Claim 41 has been cancelled herein without prejudice, and claim 40 has been amended as set forth herein. The rejection will therefore be addressed with respect to claims 40, 42 to 46 and 53 to 59 upon entry of this Response.

Claim 40, as amended, recites that the device, among other things, has a first layer that comprises polyvinylpyrrolidone (PVP) or polyvinylpolypyrrolidone (PVPP), and a second layer, wherein the first layer is arranged above the second layer. In contrast, Coffman (WO 99/00168) fail to teach or suggest a device comprising a first and second layer, wherein the first layer comprises polyvinylpyrrolidone (PVP) or polyvinylpolypyrrolidone (PVPP). Thus, Coffman (WO 99/00168) fails to teach or suggest each and every element of claim 40, and dependent claims 42 to 46 and 53 to 59. Consequently, claims 40, 42 to 46 and 53 to 59 are not anticipated by Coffman and the rejection under 35 U.S.C. §102(b) over Coffman (WO 99/00168) must be withdrawn.

The rejection of claims 40 to 47 and 54 to 59 under 35 U.S.C. §102(b) as allegedly anticipated by Young *et al.* (Appl Environ Microbiol 59:1972 (1993)) is respectfully traversed. The grounds for rejection are set forth at page 6 of the Office Action.

Claim 41 has been cancelled herein without prejudice, and claim 40 has been amended as set forth herein. The rejection will therefore be addressed with respect to claims 40, 42 to 47 and 53 to 59 upon entry of this Response.

Claim 40, as amended, recites a device comprising at least two layers which, among other things, has a first layer that comprises polyvinylpyrrolidone (PVP) or polyvinylpolypyrrolidone (PVPP), and a second layer, wherein the first layer is arranged above the second layer. In

contrast, at best Young *et al.* describe “the addition of PVP to a standard agarose gel” which is a single layer (see, e.g., abstract; page 1972, left column; and page 1973, left column), and not a device comprising at least two layers. Furthermore, Young *et al.* fail to teach or suggest a device comprising a first and second layer, wherein the first layer comprises polyvinylpyrrolidone (PVP) or polyvinylpolypyrrolidone (PVPP), and the first layer is arranged above the second layer. Thus, Young *et al.* fail to teach or suggest each and every element of claim 40, and dependent claims 42 to 47 and 53 to 59. Consequently, claims 40, 42 to 47 and 53 to 59 are not anticipated by Young *et al.* and the rejection under 35 U.S.C. §102(b) over Young *et al.* (Appl Environ Microbiol 59:1972 (1993)) must be withdrawn.

## CONCLUSION

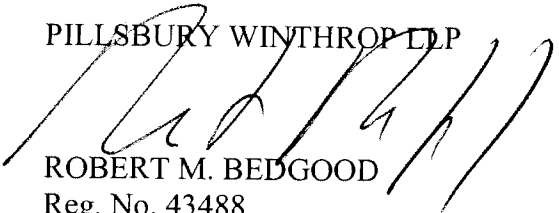
In summary, for the reasons set forth herein, Applicants maintain that the claims clearly and patentably define the invention, respectfully request that the Examiner reconsider the various grounds set forth in the Office Action, and respectfully request the allowance of the claims which are not pending.

If the Examiner would like to discuss any of the issues raised in the Office Action, Applicant's representative can be reached at (858) 509-4065.

Please charge any fees associated with the submission of this paper to Deposit Account Number 033975, order no. 009848-0314964. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

Respectfully submitted,

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### **CERTIFICATION UNDER 37 C.F.R. §§ 1.8 and/or 1.10\***

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